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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/577,257	05/22/2000	Jeremy Chaney	REALNET.115A	3147

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EXAMINER

DETWILER, BRIAN J

ART UNIT	PAPER NUMBER
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2173

DATE MAILED: 02/03/2004

14

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/577,257

Applicant(s)

CHANEY, JEREMY

Examiner

Brian J Detwiler

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-6,8-11,13-42 and 45 is/are pending in the application.
- 4a) Of the above claim(s) 18-20,33 and 34 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-6,8-11,13-17,21-32,35-42 and 45 is/are rejected.
- 7) ☒ Claim(s) 40 is/are objected to.
- 8) ☒ Claim(s) 18-20,33 and 34 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☒ Interview Summary (PTO-413) Paper No(s). 14
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other:

DETAILED ACTION

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1, 3-6, 8-11, 13-17, 21-32, 35-42, and 45, drawn to a graphical interface with customized control objects, classified in class 345, subclass 866.
- II. Claims 18-20, 33 and 34, drawn to controlling a music player via a device driver for an optical diskette burner, classified in class 709, subclass 321.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention II has separate utility in that it can be used without customized graphical interfaces. See MPEP § 806.05(d).

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

During a telephone conversation with Eric Nelson on 12 January 2004 a provisional election was made with traverse to prosecute the invention of Group I, claims 1, 3-6, 8-11, 13-17, 21-32, 35-42, and 45. Affirmation of this election must be made by applicant in replying to this Office action. Claims 18-20, 33, and 34 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

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Claim Objections

Claim 40 is objected to because it is dependent from itself. It is clear, however, that Applicant intended for it to be dependent from claim 39 and it will be examined accordingly. Appropriate correction is required. Applicant is further advised to review the dependencies of claims 41, 42, and 45 to verify that they are correct.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 39 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 39 recites the limitations “the graphical **user** interface” and “**the** device driver” in line 8. Said limitations lack proper antecedent basis and should be changed to “the graphical interface” and “a device driver” respectively. Appropriate correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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Claims 1, 3, 4, 6, 8, 9, 11, 13, 14, 16, 17, 21-32, and 35-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,356,971 (Katz et al) and U.S. Patent No. 6,148,346 (Hanson).

Referring to claims 1, 6, 11 and 35, Katz discloses in column 6: lines 1-4 and Figures 4A-4D a music player that displays a graphical interface comprising information about music items. In Figure 1, Katz further discloses that the workstation from which the music player is launched is directly connected to a music renderer, which in this case is a CD-ROM Changer [120]. Katz's graphical interface comprises numerous control objects, but Katz fails to disclose that any of the control objects are customized and provided by a device driver related to the music renderer. Hanson, though, discloses a dynamic device driver for a peripheral device that is capable of delivering customized control objects to an application. In column 2: lines 11-19, Hanson discloses a peripheral device that is connected to a host computer. In column 2: lines 40-44, Hanson explains that said peripheral device could be an audio component. In column 2: lines 45-50, Hanson further explains that the peripheral's device driver includes a graphical interface for handling user-initiated controlling commands and for displaying the status of the peripheral device as well as a list of predefined user-selectable options related to the peripheral device. Hanson still further explains in column 5: lines 13-22 that the graphical interface objects provided by the peripheral device driver can be incorporated into the menus of the application software running on the host computer. In column 8: lines 12-27, Hanson discloses one example in which the graphical interface objects are loaded and displayed in response to a menu selection of the peripheral from within the application software. Based on these teachings, it should be clear that Hanson discloses a superior method of using peripheral device drivers to provide

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customized graphical objects to corresponding applications. Furthermore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use Hanson's teachings in combination with the music player disclosed by Katz. There are numerous types of music renderers that Katz's music player software may not have been designed to accommodate. Hanson's dynamic device driver advantageously provides the user a way to manipulate peripheral specific data objects as suggested in column 4: lines 55-57, and would thus allow Katz's music player to be compatible with an unlimited number of devices in the vast market of music renderers.

Referring to claims 3, 8, and 13, Hanson explains in column 2: lines 45-50 that the graphical interface provided by the peripheral device driver could include a list of user-selectable options.

Referring to claims 4, 9, and 14, Katz discloses in Figure 4A numerous controls for managing music items, and specifically discloses controls for playing the music items.

Referring to claims 16 and 17, as discussed above, Katz and Hanson disclose a music player that displays a graphical interface comprising information about a plurality of music items, wherein the graphical interface comprises one or more control objects. Hanson further discloses in column 5: lines 33-37 and Figure 4 a control object that displays the status of a connected peripheral device. As the status of the peripheral device changes, Hanson's dynamic device driver will subsequently change the name of the control object. For instance, Hanson explains in column 5: lines 33-36 that the status of a printer could be "printer idle, needs paper, paper jam, etc." Hanson even suggests in column 2: lines 40-44, that said peripheral device could be an audio component. Accordingly, it would have been obvious to one of ordinary skill in the

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art at the time the invention was made to use a dynamic device driver for music renderer to modify the name of a control object as taught by Hanson in the music player software of Katz. Again, there are numerous types of music renderers that Katz's music player software may not have been designed to accommodate. Hanson's dynamic device driver advantageously provides the user a way to manipulate peripheral specific data objects as suggested in column 4: lines 55-57, and would thus allow Katz's music player to be compatible with an unlimited number of devices in the vast market of music renderers.

Referring to claims 21, 24, 27, 30, and 37, Katz discloses in column 4: lines 42-54 that the music player executes on a computer.

Referring to claims 22, 23, 25, 26, 28, 29, 31, 32, and 38, Hanson discloses in column 2: lines 40-44, that the peripheral device controlled by the dynamic device driver could be an audio component. Accordingly, Hanson's disclosure anticipates the use of portable MP3 players and optical disk burning devices, both of which are audio components.

Referring to claim 36, Hanson discloses in column 5: lines 13-43 that the graphical interface control objects could be buttons.

Claims 5, 10, 15, 39-42, and 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,356,971 (Katz et al), U.S. Patent No. 6,148,346 (Hanson), and U.S. Patent No. 6,377,530 (Burrows).

Referring to claims 5, 10, and 15, Katz and Hanson fail to disclose that the event comprises a request to transfer a music item from the computer to a portable music player device. Burrows, though, teaches in column 4: line 35 through column 5: line 5 a portable music

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player device that is controllable by a computer interface. Specifically, Burrows explains in this section that the host computer can replace or update the table of contents, add music items, and delete music items. To perform any of these operations the host computer must inherently display some sort of graphical interface that allows the user to properly manage the music items. Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to display a graphical interface in response to a request to transfer a music item from a computer to a portable music player device as suggested by Burrows in combination with the teachings of Katz and Hanson because portable music player users require a convenient and user-friendly mechanism for transferring music items.

Referring to claim 39, as discussed above, Katz and Hanson disclose executing a music player that displays a graphical interface comprising information about music items. Katz and Hanson further suggest displaying a graphical interface for managing the content of a portable music player device in response to an event and assigning an object in the graphical interface with a device driver of the portable music player (see rejections above). Katz and Hanson fail to disclose, however, that the event is a request to transfer a music item from the computer to the portable music player device. Burrows, though, teaches in column 4: line 35 through column 5: line 5 a portable music player device that is controllable by a computer interface. Specifically, Burrows explains in this section that the host computer can replace or update the table of contents, add music items, and delete music items. To perform any of these operations the host computer must inherently display some sort of graphical interface that allows the user to properly manage the music items. Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to display a graphical interface in response to a request to

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transfer a music item from a computer to a portable music player device as suggested by Burrows in combination with the teachings of Katz and Hanson because portable music player users require a convenient and user-friendly mechanism for transferring music items.

Referring to claim 40, the examiner submits that a graphical interface for use with Burrows' invention must include an import window so that the user can select which files are to be moved.

Referring to claim 41, the examiner submits that a graphical interface for use with Burrows' invention must further include a selector for initiating transfer of at least one music item to the portable music player device.

Referring to claim 42, as mentioned above, Burrows discloses transferring music files from a computer to a portable music player device in column 5: lines 1-5.

Referring to claim 45, Katz discloses in Figure 4A controls for initiating playback of music files from a connected CD playing device. Accordingly, these same controls could be used to initiate playback of music files on any connected audio device such as a portable music player device.

Response to Arguments

Applicant's arguments with respect to claims 1, 3-6, 8-11, 13-42, and 45 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

The prior art made of record on form PTO-892 and not relied upon is considered pertinent to applicant's disclosure. Applicant is required under 37 C.F.R. § 1.111(c) to consider

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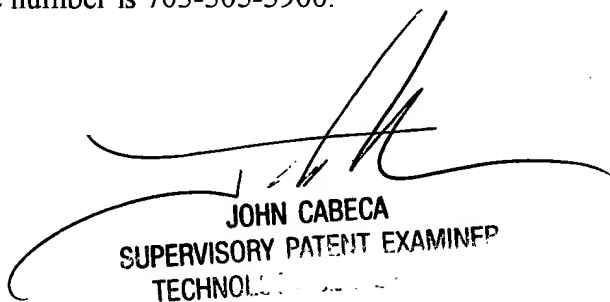
these references fully when responding to this action. The documents cited therein teach device drivers that provide graphical interfaces for connected peripheral devices.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian J Detwiler whose telephone number is 703-305-3986. The examiner can normally be reached on Mon-Thu 8-5:30 and alternating Fridays 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W Cabeca can be reached 703-308-3116. The fax phone number for the organization where this application or proceeding is assigned is 703-746-7239.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

bjd
12 January 2004



JOHN CABECA
SUPERVISORY PATENT EXAMINER
TECHNOLOGY